

AMENDED IN SENATE APRIL 13, 2005

SENATE BILL

No. 434

Introduced by Senator Simitian

February 17, 2005

---

An act to ~~add Section 161 to~~ amend Section 141 of the Penal Code, relating to ~~traducement~~ false reporting.

---

LEGISLATIVE COUNSEL'S DIGEST

SB 434, as amended, Simitian. ~~Traducement.~~ False reporting.

Existing law establishes the offense of falsely reporting the occurrence of a misdemeanor or felony. Existing law provides this offense is punishable as a misdemeanor.

This bill would ~~establish the offense of traducement, defined as the attempt to knowingly and deliberately mislead any law enforcement officer to believe that an innocent person is guilty of committing any serious or violent felony and that results in the arrest and incarceration of that innocent person in any jail or prison. The act or acts constituting traducement may be direct, including, but not limited to, making a knowingly false statement directly to a law enforcement officer, or indirect, including, but not limited to, planting evidence, with the specific intent to mislead a law enforcement officer. The bill would provide that the offense is punishable by a imprisonment in the state prison for 3, 5, or 9 years~~ provide that any person who knowingly, willfully, and intentionally alters, modifies, plants, places, manufacturers, conceals, or moves any physical matter, or makes a false statement, with the specific intent that the action will result, the action does result, in an innocent person being arrested and incarcerated for a serious or violent felony, would be guilty of a felony punishable by imprisonment in the state prison for a term of 3, 5, or 9 years, and a fine not exceeding \$10,000. The bill would further

*provide that prosecution for this offense shall be commenced within 3 years of discovery of the offense.*

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 161 is added to the Penal Code, to read:~~  
2     ~~161. (a) Traducement is the attempt to knowingly and~~  
3     ~~deliberately mislead any law enforcement officer to believe that~~  
4     ~~an innocent person is guilty of committing any serious or violent~~  
5     ~~felony and that results in the arrest and incarceration of that~~  
6     ~~innocent person in any jail or prison. The act or acts constituting~~  
7     ~~traducement may be direct, including, but not limited to, making~~  
8     ~~a knowingly false statement directly to a law enforcement~~  
9     ~~officer, or indirect, including, but not limited to, planting~~  
10    ~~evidence, with the specific intent to mislead a law enforcement~~  
11    ~~officer.~~

12    ~~(b) Traducement is punishable by imprisonment in the state~~  
13    ~~prison for three, five, or nine years.~~

14    ~~(c) Prosecution for this offense must commence within three~~  
15    ~~years of discovery of the offense.~~

16    ~~SECTION 1. Section 141 of the Penal Code is amended to~~  
17    ~~read:~~

18    ~~141. (a) (1) Except as provided in subdivision (b), any~~  
19    ~~person who knowingly, willfully, and intentionally alters,~~  
20    ~~modifies, plants, places, manufactures, conceals, or moves any~~  
21    ~~physical matter, with specific intent that the action will result in a~~  
22    ~~person being charged with a crime or with the specific intent that~~  
23    ~~the physical matter will be wrongfully produced as genuine or~~  
24    ~~true upon any trial, proceeding, or inquiry whatever, is guilty of a~~  
25    ~~misdemeanor.~~

1     (2) *Any person who knowingly, willfully, and intentionally*  
2 *alters, modifies, plants, places, manufacturers, conceals, or*  
3 *moves any physical matter, or makes a false statement, with the*  
4 *specific intent that the action will result, the action does result, in*  
5 *an innocent person being arrested and incarcerated for a serious*  
6 *or violent felony, is guilty of a felony punishable by imprisonment*  
7 *in the state prison for a term of three, five, or nine years, and a*  
8 *fine not exceeding ten thousand dollars (\$10,000).*  
9 *Notwithstanding any other provision of law, prosecution for this*  
10 *offense shall be commenced within three years of the discovery of*  
11 *the offense.*

12     (b) Any peace officer who knowingly, willfully, and  
13 intentionally alters, modifies, plants, places, manufactures,  
14 conceals, or moves any physical matter, with specific intent that  
15 the action will result in a person being charged with a crime or  
16 with the specific intent that the physical matter will be  
17 wrongfully produced as genuine or true upon any trial,  
18 proceeding, or inquiry whatever, is guilty of a felony punishable  
19 by two, three, or five years in the state prison.

20     (c) Nothing in this section shall preclude prosecution under  
21 both this section and any other provision of law.

22     SEC. 2. No reimbursement is required by this act pursuant to  
23 Section 6 of Article XIII B of the California Constitution because  
24 the only costs that may be incurred by a local agency or school  
25 district will be incurred because this act creates a new crime or  
26 infraction, eliminates a crime or infraction, or changes the  
27 penalty for a crime or infraction, within the meaning of Section  
28 17556 of the Government Code, or changes the definition of a  
29 crime within the meaning of Section 6 of Article XIII B of the  
30 California Constitution.